



## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Petitions for Modification of Application of Existing Mandatory Safety Standards

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice includes the summaries of three petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

**DATES:** All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit your comments including the docket number of the petition by any of the following methods:

1. Electronic Mail: [zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov). Include the docket number of the petition in the subject line of the message.

2. Facsimile: 202-693-9441.

3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations, and Variances, 201 12<sup>th</sup> Street South, Suite 4E401, Arlington, Virginia 22202-5452, Attention: S. Aromie Noe, Acting Deputy Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

**FOR FURTHER INFORMATION CONTACT:** S. Aromie Noe, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), noe.song-ae.a@dol.gov (email), or 202-693-9441 (facsimile). [These are not toll-free numbers.]

**SUPPLEMENTARY INFORMATION:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

## **I. Background**

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

## **II. Petitions for Modification**

Docket Number: M-2021-007-C

Petitioner: Mountain Coal Company, L.L.C., 5174 Highway 133, Somerset, Colorado (ZIP 81434).

Mine: West Elk Mine, MSHA ID No. 05-03672, located in Gunnison County, Colorado

Regulation Affected: 30 CFR 75.507-1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard, 30 CFR 75.507-1(a), as it relates to the use of an alternative method of respirable dust protection for longwall miners at the West Elk Mine in Colorado. Specifically, the petitioner is applying to use the battery-powered 3M Versaflo TR-800 Respirator in return air outby the last open crosscut.

The petitioner states that:

- (a) The current 3M Airstream Powered Air Purifying Respirator (PAPR), mining Headgear-Mounted model, is approved by MSHA but has been discontinued by the manufacturer, 3M. The 3M Airstream model allows for constantly filtered air to flow, reducing exposure to respirable dust.
- (b) There are no other MSHA-approved PAPRs.
- (c) The 3M Versaflo TR-800 PAPR is intrinsically safe and certified under ANSI/UL 60079-11 standard for hazardous locations.
- (d) The 3M Versaflo TR-800 PAPR allows for increased movement in tight spaces, while protecting against dust contamination. It is easy to use. It, has interchangeable components for specific applications, audible and visual alarms for restricted flow, a multi speed blower, and long run battery times. It charges quickly.

The petitioner proposes the following alternative method:

- (a) The petitioner will use the 3M Versaflo TR-800 PAPR in or inby the last open crosscut to protect miners from exposure to respirable dust during regular longwall mining operations.
- (b) When not in operation, batteries for the PAPR will be charged on the surface or underground in intake air and not within 150 feet of a worked out area.
- (c) Batteries will be inspected and changed at the surface or underground in intake air.

- (d) Battery charging products used will be the 3M TR-641N or the 3M 4- station battery charger TR-644N.
- (e) The 3M Versaflo TR-800 will exclusively use the 3M TR-830 battery pack.
- (f) Before beginning use, miners will be trained on how to safely use, care for, and inspect 3M Versaflo TR-800 PAPR units per the manufacturer's instructions.
- (g) The 3M Versaflo TR-will be assessed for physical damage and integrity of the unit's case before each use.
- (h) The product will not be used if a methane level is found to be at or above 1.0 percent. If methane levels are higher than 1.0 percent, the equipment will immediately be de-energized and withdrawn from affected areas.
- (i) The product will not be used in continuous miner sections alongside proximity detection systems.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Docket Number: M-2021-008-C

Petitioner: Mountain Coal Company, L.L.C., 5174 Highway 133, Somerset, Colorado (ZIP 81434).

Mine: West Elk Mine, MSHA ID No. 05-03672, located in Gunnison County, Colorado

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard, 30 CFR 75.500(d), as it relates to the use of an alternative method of respirable dust protection at the West Elk Mine in Colorado. Specifically, the petitioner is applying to utilize the battery-powered 3M Versaflo TR-800 Respirator for longwall miners in or inby the last open crosscut at the West Elk Mine in Colorado.

The petitioner states that:

- (a) The current 3M Airstream Powered Air Purifying Respirator (PAPR), mining Headgear-Mounted model, is approved by MSHA but has been discontinued by the manufacturer, 3M. The 3M Airstream model allows for constantly filtered air to flow, reducing exposure to respirable dust.
- (b) There are no other MSHA-approved PAPRs.
- (c) The 3M Versaflo TR-800 PAPR is intrinsically safe and certified under ANSI/UL 60079-11 standard for hazardous locations.
- (d) The 3M Versaflo TR-800 PAPR allows for increased movement in tight spaces, while protecting against dust contamination. It is easy to use. It, has interchangeable components for specific applications, audible and visual alarms for restricted flow, a multi speed blower, and long run battery times. It charges quickly.

The petitioner proposes the following alternative method:

- (a) The petitioner will use the 3M Versaflo TR-800 PAPR in or inby the last open crosscut to protect miners from exposure to respirable dust during regular longwall mining operations.
- (b) When not in operation, batteries for the PAPR will be charged on the surface or underground in intake air and not within 150 feet of a worked out area.
- (c) Batteries will be inspected and changed at the surface or underground in intake air.
- (d) Battery charging products used will be the 3M TR-641N or the 3M 4- station battery charger TR-644N.
- (e) The 3M Versaflo TR-800 will exclusively use the 3M TR-830 battery pack.
- (f) Before beginning use, miners will be trained on how to safely use, care for, and inspect 3M Versaflo TR-800 PAPR units per the manufacturer's instructions.
- (g) The 3M Versaflo TR-will be assessed for physical damage and integrity of the unit's case before each use.

- (h) The product will not be used if a methane level is found to be at or above 1.0 percent. If methane levels are higher than 1.0 percent, the equipment will immediately be de-energized and withdrawn from affected areas.
- (i) The product will not be used in continuous miner sections alongside proximity detection systems.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Docket Number: M-2021-009-C

Petitioner: Mountain Coal Company, L.L.C., 5174 Highway 133, Somerset, Colorado (ZIP 81434).

Mine: West Elk Mine, MSHA ID No. 05-03672, located in Gunnison County, Colorado

Regulation Affected: Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard, 30 CFR 75.1002(a), as it relates to the use of an alternative method of respirable dust protection for longwall miners at the West Elk mine in Colorado. Specifically, the petitioner is applying to utilize the battery-powered 3M Versaflo TR-800 Respirator within 150 feet of pillar workings or longwall faces.

The petitioner states that:

- (a) The current 3M Airstream Powered Air Purifying Respirator (PAPR), mining Headgear-Mounted model, is approved by MSHA but has been discontinued by the manufacturer, 3M. The 3M Airstream model allows for constantly filtered air to flow, reducing exposure to respirable dust.
- (b) There are no other MSHA-approved PAPRs.
- (c) The 3M Versaflo TR-800 PAPR is intrinsically safe and certified under ANSI/UL 60079-11 standard for hazardous locations.

- (d) The 3M Versaflo TR-800 PAPR allows for increased movement in tight spaces, while protecting against dust contamination. It is easy to use. It, has interchangeable components for specific applications, audible and visual alarms for restricted flow, a multi speed blower, and long run battery times. It charges quickly.

The petitioner proposes the following alternative method:

- (a) The petitioner will use the 3M Versaflo TR-800 PAPR in or inby the last open crosscut to protect miners from exposure to respirable dust during regular longwall mining operations.
- (b) When not in operation, batteries for the PAPR will be charged on the surface or underground in intake air and not within 150 feet of a worked out area.
- (c) Batteries will be inspected and changed at the surface or underground in intake air.
- (d) Battery charging products used will be the 3M TR-641N or the 3M 4- station battery charger TR-644N.
- (e) The 3M Versaflo TR-800 will exclusively use the 3M TR-830 battery pack.
- (f) Before beginning use, miners will be trained on how to safely use, care for, and inspect 3M Versaflo TR-800 PAPR units per the manufacturer's instructions.
- (g) The 3M Versaflo TR-will be assessed for physical damage and integrity of the unit's case before each use.
- (h) The product will not be used if a methane level is found to be at or above 1.0 percent. If methane levels are higher than 1.0 percent, the equipment will immediately be de-energized and withdrawn from affected areas.
- (i) The product will not be used in continuous miner sections alongside proximity detection systems.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

**Song-ae Aromie Noe,**

*Acting Deputy Director,*

*Office of Standards, Regulations, and Variances.*

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